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10/783,582	02/20/2004	Luis A. Freeman	RPS920030179US1/2945P	7737

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EXAMINER

CHONG CRUZ, NADJA N

ART UNIT

PAPER NUMBER

3623

NOTIFICATION DATE

DELIVERY MODE

04/02/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/783,582	Applicant(s) FREEMAN ET AL.	
	Examiner NADJA CHONG CRUZ	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This is a Final office action in reply to the response filed on 17 December 2008.
2. Claims 1, 11 and 21 have been amended.
3. Claims 1-24 are currently pending and have been examined.
4. The rejections of claims 1-24 have been updated to reflect the amendments.

Response to Amendment

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.
6. The objections of the Drawings in the previous office action are withdrawn, in response to Applicant's amendments. The examiner thanks the applicant for correcting this minor flaw.
7. Applicant's amendment to claim 1 is not sufficient to overcome the 35 USC § 101 rejections set forth in the previous action. Therefore, the rejection stands. A "computer implemented" method is a nominal recitation. Nominal recitations of structure in an otherwise ineligible method fail to make the method a statutory process.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
9. Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. As per claims 1, 11 and 21, recites *the cumulative excess inventory, the sum of the number of weeks and the number of weeks*. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 101

11. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

12. Claims 1-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Based on Supreme Court precedent and recent Federal Circuit decisions, *88 USPQ2d 1385 In re Bilski U.S. Court of Appeals Federal Circuit*. A method claim must meet a specialized, limited meaning to qualify as a patent-eligible process claim. As clarified in *Bilski*, The test for a method claim is whether the claimed method is (1) tied to a particular machine or apparatus, or (2) transforms a particular article to a different state or thing. This is called the "machine or-transformation test" (see at least *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876).
13. There are two corollaries to the machine-or-transformation test. First, a mere field-of-use limitation is generally insufficient to render an otherwise ineligible method claim patent eligible. This means the machine or transformation must impose meaningful limits on the method claim's scope to pass the test. Second, insignificant extra-solution activity will not transform an unpatentable principle into a patentable process. This means reciting a specific machine or a particular transformation of a specific article in an insignificant step, such a data gathering or outputting, is not sufficient to pass the test.

14. Nominal recitations of structure in an otherwise ineligible method fail to make the method a statutory process. See Benson, 409 U.S. at 71-72. As Comiskey recognized, "the mere use of the machine to collect data necessary for application of the mental process may not make the claim patentable subject matter." Comiskey, 499 F.3d at 1380 (citing *In re Grams*, 888 F.2d 835, 839-40 (Fed. Cir.1989)). Incidental physical limitations, such as data gathering, field of use limitations, and post-solution activity are not enough to convert an abstract idea into a statutory process. In other words, nominal or token recitations of structure in a method claim do not convert an otherwise ineligible claim into an eligible one. Claims 2-10 inherit the same deficiencies as claim 1 and are therefore rejected for the same reasons as claim 1.
15. Incidental physical limitations, such as data gathering, field of use limitations, and post-solution activity are not enough to convert an abstract idea into a statutory process. In other words, nominal or token recitations of structure in a method claim do not convert an otherwise ineligible claim into an eligible one. Claims 2-10 inherit the same deficiencies as claim 1 and are therefore rejected for the same reasons as claim 1.

Response to Arguments

16. Applicant's arguments with respect to claims 1, 11 and 15 have been considered but are moot in view of the new ground(s) of rejection.
17. It is noted that the applicant did not challenge the officially cited facts in the previous office action(s) therefore those statements as presented are herein after prior art. Specifically it has been established that it was old and well known in the art at the time of the invention that: an MRP system includes cost information about contract terms and conditions in order to satisfy a manufacturing order based on the client's terms and conditions. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include cost information about contract terms and conditions into Rand's Monitoring Excess Inventory Method and System, because they define how a contract is implemented for a customer organization and they define what is being sold under the contract; the price of the items being sold; how the items are

shipped; how orders are paid for; how item returns are handled; how orders are approved; and where orders are shipped from.

Claim Rejections - 35 USC § 103

- 18.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 19.** Claims 1-2, 4-8, 10-12, 14-18 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rand et al., (US 5,960,414) hereinafter "Rand" in view of Applicant's own admission, hereinafter "AOA" and further in both view of Negron (US 2004/0064382 A1) and MCTS - The Just-in-Time, (<http://web.archive.org/web/20010221205818/http://mcts.com/Just-In-Time.html>) (2001) hereinafter "MCTS".

Claims 1 and 11:

Rand as shown discloses a system, program and method for monitoring excess inventory, the system, program and method comprising:

- *creating a profile for the commodity* (column 2, lines 45-47 and column 3, lines 16-18: which teaches that "requirements are determined" (e.g., creation of a profile) "for each component part" (e.g., a commodity) "over a predetermined period" where "each record in the summarized excess inventory table includes a field for maintaining actual accruals for excess materials for a platform product" (e.g., a commodity). Rand teaches a creation of a profile for the commodity in order to monitor excess inventory);

Rand teaches that historical demand forecast (e.g., "inventory table allows reporting access to historic data", column 3, lines 56-58), current cycle's demand forecasts (e.g., "requirements are determined for each component part over a predetermined period", column 2,

lines 45-48) and actual consumption data (e.g., Figure 1, “[c]reate record with consumption notation 17”); where historical demand forecast, current cycle’s demand forecasts and actual consumption data (e.g., components of a waterfall template/demand cascade; see spec, page 5, lines 5-8) are recorded in excess inventory table (e.g., “[t]he number of excess components is then recorded in a record for the component part within an excess inventory table”, column 2, lines 50-53) in order to monitor excess inventory.

Further it is noted that the label of a waterfall template/cascade demand merely represents non-functional descriptive material wherein the intended use of the system/method does not alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data and/or intended use of the space planning system. Further, the structural elements remain the same regardless of the specific data and/or intended use of the space planning system. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP 2106.

Rand further discloses:

- *and analyzing the profile and the waterfall template to generate an output report* (column 2, lines 50-54, column 3, lines 35-36: which teaches that “the MPR data” (e.g., commodity profile and waterfall template) “is used to determine” (e.g., to analyze) “a number of excess component parts. The number of excess components is then recorded in a record for the component part within an excess inventory table” (e.g., an output report). In addition Rand provides “accurate reporting” (e.g., report generation) “of excess material exposure with multiple planning methods”);
- *wherein the output report indicates the cumulative excess inventory and cumulative excess dollar figures for a plurality of liability horizons* (column 3, lines 44-53: which teaches that “[f]lexibility in planning cycle (monthly, weekly, daily, etc.)” (e.g., a

plurality of liability horizons) “provides for real time identification of excess material on hand and excess material on order” (e.g., output report of excess inventory) “an opportunity for a manufacturing organization to cancel, push out or reschedule orders to avoid procuring material not required” (e.g., associated liability). Rand teaches that the output report indicates the excess inventory and its associated liability in a planning cycle, Further in column 2, lines 51-53, which teaches that “[t]he number of excess components is then recorded in a record for the component part within an excess inventory table”; column 5, lines 6-8, which teaches that “[t]he excess inventory system includes an excess inventory detail table 25” (e.g., cumulative excess inventory) “and a financially summarized excess inventory table 29” (e.g., cumulative excess dollar figures) as shown in Figure 3, which it illustrates the calculations of quantity part and dollar values of each part, the result is added to the data table);

Rand disclose “[t]he number of excess components is then recorded in a record for the component part within an excess inventory table” (Rand, column 2, lines 51-53). Rand does not expressly teach that a commodity includes a plurality of components. However Examiner takes Official Notice that is old and well known in the art at the time of the invention that a commodity includes a plurality of components as evidenced by AOA, in the background of the specification, as shown:

- *wherein the commodity includes a plurality of components* (page 1, Background of the Invention, line 9, which teaches “to manufacture a commodity which typically comprises one or more components”);

Therefore, it would have been obvious to one of ordinary skill in the art to modify Rand to include the teaching of AOA because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did

separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Rand teaches that “[f]lexibility in planning cycle (monthly, weekly, daily, etc.) provides for real time identification of excess material on hand and excess material on order, an opportunity for a manufacturing organization to cancel,” (e.g., cancellable components) “push out or reschedule orders” (e.g., non-cancellable components) “to avoid procuring material not required, flexibility and scalability to adjust to requirements planning forecast based planning changes if the organization alters its planning cycle and current period reporting of excess financial data instead of reporting on a previous period (normally, previous month's data). (Rand, column 3, lines 44-53).

Rand does not expressly teach the following limitation. However Negron in an analogous art of inventory management for the purpose of providing cancellable and non cancellable components (¶ 0018) as shown does:

- *wherein at least one components are cancellable and at least one of the components are non-cancellable* (¶ 0018, which teaches that “the purchase orders may include cancelable purchase orders” (e.g., a purchase order of cancelable components) “and non-cancelable purchase orders” (e.g., a purchase order of non-cancelable components) wherein a purchase orders includes the components of a commodity);
- *wherein the cancellable components rely on one of the plurality of liability horizons* (¶ 0039, which teaches that “[c]ancelable and non-cancelable purchase orders are used to establish the timing of procurement order” (e.g., a plurality of liability horizons));
- *and wherein the non-cancellable components rely on the manufacturing lead time which is the sum of the number of weeks needed to manufacture and store the commodity and the number of weeks to order the component* (¶ 0039, which

teaches that “[t]he requirements of the non-cancelable purchase orders are used to determine a minimum fulfillment rate and period” (e.g., the number of weeks to order the component));

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a cancellable and non-cancellable component of a commodity as taught by Negron to improve Rand excess inventory monitoring method, product and system, thereby giving the predictable result of “adding certainty to the demand for inventory goods, and the prices paid for those goods, through the transfer of customer agreements to the owner **12**. In this manner, the owner is able to manage the inventory and maximize its return on the inventory, thereby allowing the owner to pay higher prices for the inventory purchased from the manufacturer **14**.” (Negron, ¶ 0048).

Rand teaches that “the excess inventory system calculates, from material requirement planning (MRP) data 11, six month requirements (e.g., the number of weeks to order the component) “for each component part. This is done, for example, by adding all dependent and independents requirements for a 6 month period of time to determine the total 6 month requirement for each component part” (Rand, column 4, lines 35-40 and Figure 1). Negron teaches “[c]ancelable and non-cancelable purchase orders are used to establish the timing of procurement orders.” (e.g., a plurality of liability horizons) “The requirements of the non-cancelable purchase orders are used to determine a minimum fulfillment rate and period,” (e.g., the number of weeks to order the component) “as well as pricing and payment terms for the goods.” (Negron, ¶ 0039).

The combination of Rand, AOA and Negron does not expressly teach that *the manufacturing lead time which is the sum of the number of weeks needed to manufacture and store the commodity*. However Examiner takes Official Notice that is old and well known in the art at the time of the invention that manufacturing lead time is the sum of the number of weeks needed to manufacture and store the commodity as evidenced by MCTS, wherein MCTS teaches in page 14, 2nd ¶ that

the manufacturing lead time (MLT) is the sum of the time needed (e.g., weeks needed) to manufacture and store the commodity as shown in Figures 3 and 4 (pages 51-52) which they illustrates queue and wait time (e.g., manufacturing and store time). Therefore, it would have been obvious to one of ordinary skill in the art to modify Rand in both view of AOA and Negron to include the teaching of MCTS because the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

Claims 2, 12 and 22:

Rand as shown discloses the following limitation:

- *wherein the profile is a liability profile that comprises a plurality of cancellation windows, each of which indicate a level of liability associated with excess inventory existing within each cancellation window* (column 3, lines 44-46 and column 5, lines 6-8: which teaches that “[t]he excess inventory system includes an excess inventory detail table 25 and a financially summarized excess inventory data table 26” (e.g., level of liability associated with excess inventory) of each part component. In addition Rand teaches that during a “[f]lexibility planning cycle (monthly, weekly, daily, etc.)” (e.g., a plurality of cancellation windows) orders are cancelled, push out or rescheduled where it “provides for real time identification of excess material on hand and excess material on order” with the purpose to avoid procuring material not required in a planning cycle.

Claims 4, 14 and 23:

Rand as shown discloses the following limitation:

- *wherein the waterfall template represents a number of units ordered over a fixed period* (column 4, lines 39-43: which teaches that “[i]n step 13 a check is made to determine if the material has dependent or independent requirements. A dependent

requirement is a customer order for a product". Rand teaches a number of units ordered" (e.g., customer order for a product) over a fixed period (e.g., 6 month period));

- *and a number of units consumed during the fixed period* (Figure 1, which it illustrates a process flow for an excess inventory system where Rand teaches a "[c]reate record with consumption notation 17" (e.g., number of units consumed));

Claims 5 and 15:

Rand as shown discloses the following limitation:

- *collecting current and past demand forecast data, wherein demand forecast data comprises the number of units ordered on a weekly basis for a cycle comprising a set number of weeks* (Figure 1 and column 2, lines 61-65, which it illustrates "Determine forecasted requirements" in a 6 month (e.g., set number of weeks) which is well known in the art that to gather current and past data in order to forecast demand data. In addition Rand teaches that [t]he forecasting and updating the excess inventory table may be scheduled at any time after the performance of an MRP cycle. For example, this may be done monthly, weekly, daily or even hourly");
- *and collecting current and past consumption data, wherein consumption data comprises the number of units consumed during a cycle* (Figure 1, which it illustrates a process flow for an excess inventory system where Rand teaches a "[c]reate record with consumption notation 17" (e.g., number of units consumed during a cycle, 6 months). Rand teaches that collecting current and past consumption data during a manufacturing cycle is well known in the art in order to determine excess inventory for a manufacturing process, where the material on hand balances and on order exceeds that period requirement, that material is considered in excess);

Claims 6 and 16:

Rand as shown discloses the following limitation:

- *utilizing the output report to manage the excess inventory* (column 3, lines 16-18: which teaches that “each record in the summarized excess inventory table includes field for maintaining actual accruals for excess materials for a platform product”. Rand teaches an output report (e.g., excess inventory table) to manage the excess inventory);

Claims 7 and 17:

Rand as shown discloses the following limitation:

- *adjusting a future demand forecast to mitigate partially or entirely the liability associated with the excess inventory* (column 3, lines 48-51: which teaches that Rand enables “flexibility and scalability to adjust to requirements planning changes” (e.g., future demand forecast), “if the organization alters its planning cycle” in order to mitigate partially the liability associated with the excess inventory);

Claims 8 and 18:

Rand as shown discloses the following limitation:

- *submitting a hypothetical demand forecast to determine an effect upon the excess inventory and the associated liability* (column 4, lines 55-61: which teaches that “[o]nce the excess inventory system has calculated the exact 6 month requirements or estimated the requirements, the excess inventory system performs a calculation (on hand + on order-6 month requirements)” (e.g., an hypothetical demand forecast) “to determine if material purchases exceed material demand for the component part” (e.g., excess inventory and the associated liability));

Claims 10 and 20:

Rand as shown discloses the following limitation:

- *validating a claim for the liability associated with the excess inventory* (column 8, lines 16-24: which teaches that “[a] user of the excess inventory system can review excess material” (e.g., validating a claim) “using the ad hoc reporting capabilities of excess inventory system and use other features of the excess inventory system to maintain the information in excess inventory system query excess inventory detail table 25 via user input 26 or financially summarized excess inventory data table 29” (e.g., liability associated with the excess inventory) “via user input 31.”);

Claim 21:

The limitations of claim 21 encompass substantially the same scope as claim 1. Accordingly, those similar limitations are rejected in substantially the same manner as claim 1, as described above. The following are the limitations of claim 21 that differ from claim 1.

- *a processor; a liability management tool coupled to the processor* (Figure 3, which it illustrates the operation of strip program” (e.g., a liability management tool) and column 8, lines 25-48, which teaches that the strip program calculates stock on hand for each material plus open orders quantities with the purpose to identify excess stocks as well as non-excess material where information is recorded in the excess inventory detail table. It is implicitly disclosed that a program is coupled to a processor in order to be executed by the system);

- 20.** Claims 3, 13 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rand et al (US 5,960,414) hereinafter “Rand” in view of Applicant's own admission, hereinafter “AOA” and further in both view of Negron (US 2004/0064382 A1) and MCTS - The Just-in-Time, (<http://web.archive.org/web/20010221205818/http://mcts.com/Just-In-Time.html>) (2001) hereinafter “MCTS”. as applied to claims 1-2, 4-8, 10-12, 14-18 and 20-23 above in view of

Official Notice.

Claims 3 and 13:

Rand teaches that the “strip program 22 calculates the standard material price” (e.g., unit costs) “for material identified as excess inventory” and that the system for monitoring excess inventory determines the requirements for each component part” (e.g., bills-of-material information) over a predetermined period based on the MRP information. (Column 2, lines 45-47 and column 8, lines 36-37).

Rand does not specifically disclose that the *cost information including contract terms and conditions*. However Examiner takes Official Notice that is well known in the art that an MRP system includes cost information about contract terms and conditions in order to satisfy a manufacturing order based on the client’s terms and conditions. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include cost information about contract terms and conditions into Rand’s Monitoring Excess Inventory Method and System, because they define how a contract is implemented for a customer organization and they define what is being sold under the contract; the price of the items being sold; how the items are shipped; how orders are paid for; how item returns are handled; how orders are approved; and where orders are shipped from.

Claim 24:

The limitations of claim 24 encompass substantially the same scope as claims 3 and 5. Accordingly, those similar limitations are rejected in substantially the same manner as claims 3 and 5, as described above.

- 21.** Claims 9 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rand et al (US 5,960,414) hereinafter “Rand” in view of Applicant’s own admission, hereinafter “AOA” and further in both view of Negron (US 2004/0064382 A1) and MCTS - The Just-in-Time, (<http://web.archive.org/web/20010221205818/http://mcts.com/Just-In-Time.html>) (2001) hereinafter “MCTS”. as applied to claims 1-2, 4-8, 10-12, 14-18 and 20-23 above in view of Weltman, Strategies for Your Business’s Excess Inventory, Inc.com, January 2003.

Claims 9 and 19:

Rand does not specifically disclose the following limitation. However Weltman in an analogous art of Business's Excess Inventory for the benefits of strategies for excess inventory (page 1, strategies) as shown, does:

- *planning a promotional activity to increase consumption of the commodity* (page 1, Mark down slow movers: which teaches that for excess inventory to "offer it for sale" (e.g., a promotional activity) "at a substantially reduce price" which increase consumption of the commodity);

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to plan a promotional activity (e.g., mark down slow movers, donate excess items to charity) as taught by Weltman to improve Rand excess inventory monitoring method, product and system, thereby giving the predictable result of invest money in items (e.g., commodities) with more productive uses and to cut excess inventory, "and gain tax benefits as well". (Weltman page 1, 1st ¶).

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Perry (US 6,974,903) discloses a method and system for monitoring supply-chain.
- Crosswhite (US 6,611,726 B1) disclose a method for determining optimal time series forecasting parameters.
- MGI Basis of Supply Chain Management (<http://www.mgi.org/onlinecourses/e56/unit1/17.html>) 1997, which disclose lead time definitions.

23. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Nadja Chong** whose telephone number is **571.270.3939**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **BETH BOSWELL** can be reached at **571.272.6737**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents

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Alexandria, VA 22313-1450

or faxed to **571-273-8300**.

Art Unit: 3623

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